THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.2959 of 2007

Dated: 15.02.2007

Between:

Bimidi Yella Reddy.

..... PETITIONER

AND

The Joint Collector, Ranga Reddy District and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.2959 of 2007

ORDER:

The petitioner claims to be one of the legal heirs and successors of late Basavareddy, his grand father, who was owner of land admeasuring Acs.3.08 gts situated at Badangpet Village, Saroornagar Mandal, Ranga Reddy District, and whose name was recorded as pattadar and possessor of the land. The petitioner and other successors claim to be in possession of the land. When respondents 4 to 7 approached for rectification/correction of records in respect of subject land, by proceedings dated 27.01.2004, second respondent, namely, the Revenue Divisional Officer (RDO), cancelled pattadar passbooks and title deeds issued to the petitioner and others and directed third respondent, namely, the Mandal Revenue Officer(MRO) to take necessary action in the matter. Feeling aggrieved by the orders of RDO, the petitioner and others filed a revision petition under Section 9 of the of the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 (the Act, for brevity), being case No.D5/4302/2004. By order dated 07.02.2006, first respondent, namely, the Joint Collector, while observing that it would not be proper for the Revenue Authority to decide the question of disputed title, disposed of the revision petition giving liberty to the parties to approach the Civil Court under Section 8(2) of the Act. In the meanwhile, MRO, presumably acting in accordance with the orders of RDO dated 27.01.2004, issued a memo dated 09.03.2005 directing the Panchayat Secretary, Badangpet, to restore the entries in the revenue records duly cancelling the pattadar passbooks/title deeds in favour of the petitioner and others. Subsequent thereto, the petitioner and others filed a suit, being O.S.No.918 of 2006, on the file of the Court of the Principal District, Ranga Reddy District, for declaration of title and perpetual injunction in respect of subject land. In this writ petition, however, the petitioner assails the memo dated 09.03.2005 issued by MRO.

The learned counsel for the petitioner strenuously contends that when RDO cancelled the pattadar passbooks/title deeds issued in favour of petitioner and others, they preferred revision before first respondent. As observed by first respondent, the petitioner and others filed the suit for declaration of title and therefore, it is illegal on the part of MRO to direct the Panchayat Secretary to restore entries in favour of the contesting respondents. He would urge that as per the Andhra Pradesh Rights in Land and Pattadar Pass Book Rules, 1989 (hereafter called, the Rules), when a suit is pending for declaration of title, any enquiry by MRO into the question of record of rights is prohibited.

In this writ petition, the memo dated 09.03.2005 issued by MRO is assailed almost two years thereafter. The delay in filing the writ petition is not properly explained. Secondly as a subordinate official, MRO was bound to implement the orders of RDO, which was precisely done by issuing the memo. When the memo was issued by MRO, the revision petition filed by the petitioner and others before first respondent was pending and presumably, there was no stay of the orders of RDO. Therefore, the memo cannot be faulted. As seen from pages 9 and 11 of the plaint in O.S.No.918 of 2006, the suit was filed in November, 2006, very much after the issue of impugned memo. In such a situation, Rule 9(1)(c)(ii) of the Rules is not attracted. As per this provision, a suit filed for a better title while the enquiry was pending before the recording authority only is a bar for enquiry and a suit filed subsequent to the enquiry does not diverse the power of the recording authority to enquire into the record of rights. The petitioner and others have already filed suit and as per Section 8(2) of the Act, if the petitioner would not succeed in the suit, the declaration by the Civil Court would certainly overrides the record of rights.

The writ petition is misconceived and is accordingly dismissed. No costs.

_____

(**V.V.S.RAO, J**)

15th February, 2007
ghn